



City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

January 12, 2016

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Special Exceptions for an entertainment establishment and the sale of alcoholic beverages for off-premises consumption at 330 – 404 W. 22nd Street – Mermaid Winery**

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved:

Marcus D. Jones, City Manager

Item Number:

R-10

- I. **Staff Recommendation:** Approval.
- II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Entertainment establishment and the sale of alcoholic beverages for off-premises consumption
- IV. **Applicant:** Mermaid Winery
- V. **Description:**
 - The request proposes to allow the existing entertainment establishment, Mermaid Winery, to expand into the space previously occupied by Sassi Cakes.
 - This establishment plans to serve alcoholic beverages for both on and off-premises consumption.

Staff point of contact: Susan Pollock at 664-4765, susan.pollock@norfolk.gov

Attachments:

- Staff Report to CPC dated December 10, 2015 with attachments
- Proponents and Opponents
- Ordinance

Planning Commission Public Hearing: December 10, 2015

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Susan Pollock Hart, CFM

Staff Report	Item No. 13	
Address	330-404 W. 22nd Street, Suites 104-106	
Applicant	Mermaid Winery	
	Special Exceptions	<p>a. Special exception to operate an entertainment establishment with alcoholic beverages.</p> <p>b. Special exception for the sale of alcoholic beverages for off-premises consumption.</p>
Property Owner	Palace Station, LLC	
Site Characteristics	Site Area/ Building Area	125,189 square feet/5,203 square feet
	Zoning	C-2 (Corridor Commercial) and PCO-21 st Street (21 st Street Pedestrian Commercial Overlay)
	Neighborhood	Ghent Business District
	Character District	Traditional
Surrounding Area	North	Railroad
	East	I-1 (Limited Industrial): Guy's Upholstering
	South	C-2 and PCO-21 st Street districts: Palace Shops; Therapy Center of Ghent
	West	C-2 and PCO-21 st Street districts: Ghent Market Shoppes



A. Summary of Request

- The requests propose to allow the existing entertainment establishment, Mermaid Winery, to expand into the space previously occupied by Sassi Cakes.
- This establishment plans to serve alcoholic beverages for both on and off-premises consumption.

B. Plan Consistency

The proposed special exceptions are consistent with *plaNorfolk2030*, which designates this site as commercial.

C. Zoning Analysis**i. General**

The proposed use is permitted by special exception in the 21st Street PCO.

	Sassi Cakes	Mermaid Winery	Proposed
Hours of Operation	9:00 a.m. to 2:00 a.m., seven days a week	10:00 a.m. to 2:00 a.m., seven days a week	Same as Mermaid
Hours for Entertainment	11:00 a.m. to 2:00 a.m., seven days a week	10:00 a.m. to 2:00 a.m., seven days a week	11:00 a.m. to 2:00 a.m. seven days a week
Hours for Sale of Alcohol	11:00 a.m. to 2:00 a.m., seven days a week	11:00 a.m. to 2:00 a.m., seven days a week	Same as Mermaid
Hours for Off-Premises Alcohol Sale	N/A	10:00 a.m. to 12:00 midnight seven days a week	Same as Mermaid
Seating Capacity	58 seats indoors 36 seats outdoors 99 Total capacity	30 seats indoors 32 seats outdoor 81 total capacity	Same as Mermaid New space 64 seats indoors 26 seats outdoor 114 total capacity
Entertainment	Four piece band Disc Jockey Karaoke Comedy Poetry reading Spoken word	Five piece band	Five piece band Disc Jockey

ii. Parking

- The existing portion of the entertainment establishment is not changing and the proposed expansion is replacing an entertainment establishment but will have six additional seats.
- One additional parking space is required and parking can be accommodated within the Palace Station Shops.

iii. Flood Zone

The property is located in the X Flood Zone, which is a low risk flood zone.

D. Transportation Impacts

Institute of Transportation Engineers figures estimate that this new restaurant will generate 29 additional vehicle trips per day by increasing total indoor seating at this location by 6 seats above currently approved levels.

E. Impact on the Environment

- The site was developed under current development standards including landscaping and stormwater management.
- The applicant has also provided additional landscaping, in the form of grape vines and rain barrels on site.

F. Impact on Surrounding Area/Site

- By requiring this use to conform to the conditions listed below, the proposed expansion of an entertainment establishment should not have a negative effect on the surrounding businesses.
- Over the past year there have been 47 calls for service for the shopping center with most of the calls pertaining to alarms, vandalism, larceny, and traffic violations.
 - There have been 2 arrests made.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

Notice was sent to the Ghent Neighborhood League and Ghent Business Association on October 27.

I. Communication Outreach/Notification

- Legal notice was posted on the property on November 3.
- Letters were mailed to all property owners within 300 feet of the property on November 25.
- Legal notification was placed in *The Virginian-Pilot* on November 26 and December 3.

J. Recommendation

Staff recommends that the special exceptions be **approved** subject to the conditions shown below:

Entertainment Establishment Conditions

- (a) The hours of operation for the establishment, shall be limited 10:00 a.m. to 2:00 a.m., seven days a week. No use of the establishment outside of the hours of operation listed herein shall be permitted.

- (b) The hours of operation for the establishment, for the sale of alcoholic beverages and for entertainment shall be limited to 11:00 am. To 2:00 a.m., seven days a week.
- (c) For suite 106, the minimum number of seats shall be 30 indoor and the maximum number of outdoor seats shall be 32, and the total occupant capacity, including employees, shall not exceed 81 people.
- (d) For suites 104 and 105, when a disc jockey and dance floor is provided the minimum number of seats shall be 46 indoor and the maximum number of seats shall be six outdoor and the total occupant capacity, including employees, shall not exceed 80 people. When other entertainment is provided, the minimum number of indoor seats shall be 64 indoor and the maximum number of seats shall be 26 outdoor, and the total occupant capacity, including employees, shall not exceed 114 people.
- (e) The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.
- (f) No smoking shall be permitted anywhere in the outdoor dining area[s].
- (g) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (h) Entertainment shall be limited to live bands having no more than 5 members or a disc jockey. No other form of entertainment is permitted.
- (i) The dance floor shall not exceed 130 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.
- (j) The layout of the establishment shall adhere to the specifications of the

floor plans attached hereto and marked as "Exhibit B."

- (k) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (l) The establishment shall maintain a current, active business license at all times while in operation.
- (m) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (n) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (o) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (p) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (q) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (r) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall

govern.

- (s) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (t) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (u) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
 - (1) This special exception;
 - (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permit(s);
 - (7) The emergency action plan required under the Fire Prevention Code;
 - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;

- (9) The establishment's designated driver program; and
- (10) The establishment's Security Plan.
- (w) The business shall provide in-house security or retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 146 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (x) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

Sale of Alcoholic Beverages for Off-Premises Consumption - Conditions

- (a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 a.m. until 1200 midnight, seven days a week.
- (b) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (c) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer shall be sold in any package containing fewer than six (6) bottles or cans and no wine shall be sold in containers less than 375 ml each.

- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (j) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

Attachments

Location map
Zoning map
1000' radii map of similar ABC establishments
Applications
Notice to the civic league and business association

Proponents and Opponents


Proponents

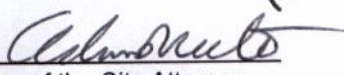
Jennifer Eichert
330 W. 22nd Street
Norfolk, Virginia 23517

Opponents

None

12/09/2015

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "MERMAID VINEYARD AND WINERY" ON PROPERTY LOCATED AT 330 WEST 22nd STREET, SUITES 104, 105 AND 106.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Mermaid Vineyard and Winery, LLC, authorizing the sale of beer and wine for off-premises consumption at an establishment known as "Mermaid Vineyard and Winery" on property located at 330 West 22nd Street, suites 104, 105 and 106. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 228 feet, more or less, along the northern line of West 22nd Street and 185 feet, more or less, along the western line of Llewellyn Avenue; property also fronts 180 feet, more or less, along the northern line of West 22nd Street beginning 385 feet, more or less, from the western line of Llewellyn Avenue and extending westwardly; premises numbered 330 West 22nd Street, suites 104, 105 and 106.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 a.m. until 12:00 midnight, seven days per week. No alcoholic beverages shall be sold for off-premises consumption outside the hours listed herein.
- (b) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation of the facility as described in the Description of

Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

- (c) No alcoholic beverages other than those defined by state law as "beer," "wine cooler," or "low alcohol beverage cooler," shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer in bottles or cans of 12 oz. capacity or smaller shall be sold in any package containing fewer than four (4) bottles or cans. No refillable containers or containers that are filled one time, on site, and which have less than 22 oz. capacity shall be sold. No wine shall be sold in containers less than 375 ml each.
- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," and labeled, "Off-Premise Sale of Alcoholic Beverage" attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific

condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (j) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992, entitled "Signs."

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to

interfere with the use and development of neighboring property in accordance with the applicable district regulations;

- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting the operation of an Establishment for the Sale of Alcoholic Beverages for Off-premises Consumption on this property, adopted on February 28, 2012, (Ordinance No. 44,582) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:

Exhibit A (2 pages)



EXHIBIT "A"
Description of Operations
Off-Premises Sale of Alcoholic Beverage

Date of Application: 10/20/2015

Name of business: Mermaid Vineyard & Winery, LLC

Address of business: 404-104 + 105+ 330 W. 22nd Street, Suite 106, Norfolk, VA 23507

Name(s) of business owner(s)*: Jennifer Eichert, George Eichert (LLC same as name of business)

Name(s) of property owner(s)*: Palace Station LLC, Claus Ihlemann

Name(s) of business manager(s)/operator(s): Karl Gallant, Thomas Pasko, Justin Burns, Jennifer Eichert, George Eichert, Michael Cozart

Daytime telephone number (757): 233-4155

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	Alcoholic Beverage Sales
Weekday From <u>10 AM</u> To <u>12 AM</u>	Weekday From <u>10 AM</u> To <u>12 AM</u>
Friday From <u>10 AM</u> To <u>12 AM</u>	Friday From <u>10 AM</u> To <u>12 AM</u>
Saturday From <u>10 AM</u> To <u>12 AM</u>	Saturday From <u>10 AM</u> To <u>12 AM</u>
Sunday From <u>10 AM</u> To <u>12 AM</u>	Sunday From <u>10 AM</u> To <u>12 AM</u>

2. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:

☒ Room temperature ☒ Refrigerated

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510


Telephone (757) 664-4752 Fax (757) 441-1569

(Revised September, 2015)


Exhibit A – Page 2
ABC-Off

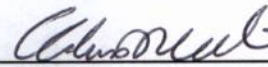
4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

Will not sell the above beverage sizes.



Signature of applicant/owner

12/10/2015 lds

Form and Correctness Approved: 

By 
Office of the City Attorney

Contents Approved: 

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT KNOWN AS "MERMAID VINEYARD AND WINERY" ON PROPERTY LOCATED AT 330 WEST 22ND STREET, SUITES 104, 105 AND 106.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Mermaid Vineyard & Winery, LLC authorizing the operation of an entertainment establishment known as "Mermaid Vineyard and Winery" on property located at 330 West 22nd Street, suites 104, 105 and 106. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 228 feet, more or less, along the northern line of West 22nd Street and 185 feet, more or less, along the western line of Llewellyn Avenue; property also fronts 180 feet, more or less, along the northern line of West 22nd Street beginning 385 feet, more or less, from the western line of Llewellyn Avenue and extending westwardly; premises numbered 330 West 22nd Street, suites 104, 105 and 106.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The hours for the sale of alcoholic beverages and for entertainment shall be limited to 11:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (c) The seating for the area known as suite 106 shall

not be less than 30 seats indoors, shall not be more than 32 seats outdoors, and the total occupant capacity, including employees, shall not exceed 81 people.

- (d) The seating and occupancy for the area known as suites 104 and 105 shall vary depending on whether disc jockey entertainment is being provided, as follows:
 - (1) When disc jockey entertainment is being provided, there shall be no fewer than 46 seats indoors, no more than six (6) seats outdoors, and the total occupant capacity, including employees, shall not exceed 80 people.
 - (2) At all other times, there shall be no fewer than 64 seats indoors, no more than 26 seats outdoors, and the total occupant capacity, including employees, shall not exceed 114 people.
- (e) No smoking shall be permitted anywhere in the outdoor dining area.
- (f) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (g) Entertainment shall be limited to live bands having no more than five (5) members or a disc jockey. No other form of entertainment is permitted.

- (h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B." Any tables, chairs, booths, stools or other movable furniture may be relocated provided that it remains only within the shaded areas and the unshaded accesses, aisles, and other areas shown on the floor plans remain unobstructed.
- (i) The dance floor shall not exceed 130 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.
- (j) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (k) The establishment shall maintain a current, active business license at all times while in operation.
- (l) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (m) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (n) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (o) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via

either a printed card placed on each table and on the bar or a description printed on the menu.

- (p) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (q) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (r) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (s) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (t) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the

establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.

- (u) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (v) No patrons or guests shall be charged a cover charge or fee for entry to the establishment.
- (w) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following:
 - (1) This special exception;
 - (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permit(s);
 - (7) The emergency action plan required under the Fire Prevention Code;
 - (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time;
 - (9) The establishment's designated driver program; and
 - (10) The establishment's Security Plan.
- (x) The business shall provide in-house security or

retain the services of a licensed security firm to provide security services at a rate of one security guard per 50 guest occupants on the property whenever occupancy shall exceed 146 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p.m. each Friday and Saturday as well as during special events, a security supervisor certified either in the Responsible Hospitality Training course offered by the City of Norfolk or in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.

- (y) The written security plan submitted to the City as part of the application for this special exception and on file with the Department of Planning shall remain in full force and effect at all times while the establishment is in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of

neighboring property in accordance with the applicable district regulations;

- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exceptions permitting entertainment establishments on this property, adopted on February 28, 2012 (Ordinance No. 44,581) and on December 16, 2014 (Ordinance No. 45,820). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the

date of its adoption.

ATTACHMENTS:

Exhibit A (5 pages)

Exhibit B (3 pages)



EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date 10/20/2015

Trade name of business Mermaid Vineyard & Winery, LLC
404- 104+105+

Address of business 330 W. 22nd Street, Suite 106, Norfolk, VA 23517

Name(s) of business owner(s)* Jennifer Eichert, George Eichert (same as property owner)

Name(s) of property owner(s)* Palace Station LLC, Claus Ihlemann

Name(s) of business manager(s)/operator(s) Jennifer Eichert, George Eichert, Karl Gullant
Justin Burrus, Michael Cozart, Thomas Pasko

Daytime telephone number (757) 233-4155

*If business or property owner is a partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	Alcoholic Beverage Sales and Entertainment
Weekday From <u>10AM</u> To <u>2AM</u>	Weekday From <u>11AM</u> To <u>2AM</u>
Friday From <u>10AM</u> To <u>2AM</u>	Friday From <u>11AM</u> To <u>2AM</u>
Saturday From <u>10AM</u> To <u>2AM</u>	Saturday From <u>11AM</u> To <u>2AM</u>
Sunday From <u>10AM</u> To <u>2AM</u>	Sunday From <u>11AM</u> To <u>2AM</u>

2. Type of ABC license applied for (check all applicable boxes):

☒ On-Premises ☒ Off-Premises (second application required)

3. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☐ Mixed Beverage

Exhibit A – Page 2
Entertainment Establishment

4. Will video games, pool tables, game boards or other types of games be provided?
☐ Yes (If more than 4, additional application required) ☒ No

4a. If yes, please describe type and number of each game to be provided:

N/A

5. Will patrons ever be charged to enter the establishment?
☐ Yes ☒ No

5a. If yes, why:

N/A

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
☒ Yes ☐ No

6a. If yes, explain:

Private parties will consist of: business meetings,
wine tastings, networking functions, wedding
receptions and anniversaries.

7. Will a third party (promoter) be permitted to lease, let or use the establishment?
☐ Yes ☒ No

7a. If yes, explain:

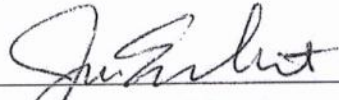
8. Will there ever be a minimum age limit?
☒ Yes ☐ No

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

Wine will be manufactured and available for sale. The
wine will also be available for wholesale.

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



Signature of Applicant

LAYOUT 1.

TASTING ROOM.

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats) 64

Number of bar seats 9

Standing room 5

BAND

b. Outdoor

Number of seats 26

c. Number of employees 10

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 114

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

5 member BAND.

3. Will a dance floor be provided?

☐ Yes

☒ No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

Layout 2

see attached for Layout 1

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1. Total capacity

a. Indoor

Number of seats (not including bar seats)

Number of bar seats

Standing room

Dancers

b. Outdoor

Number of seats

c. Number of employees

Band

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 80

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

The maximum amount of Entertainment will consist of
five amplified or unamplified musicians, DJ inside building.

3. Will a dance floor be provided?

☒ Yes ☐ No

3a. If yes,

Square footage of establishment 2,359 SF

Square footage of dance floor 130 SF

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

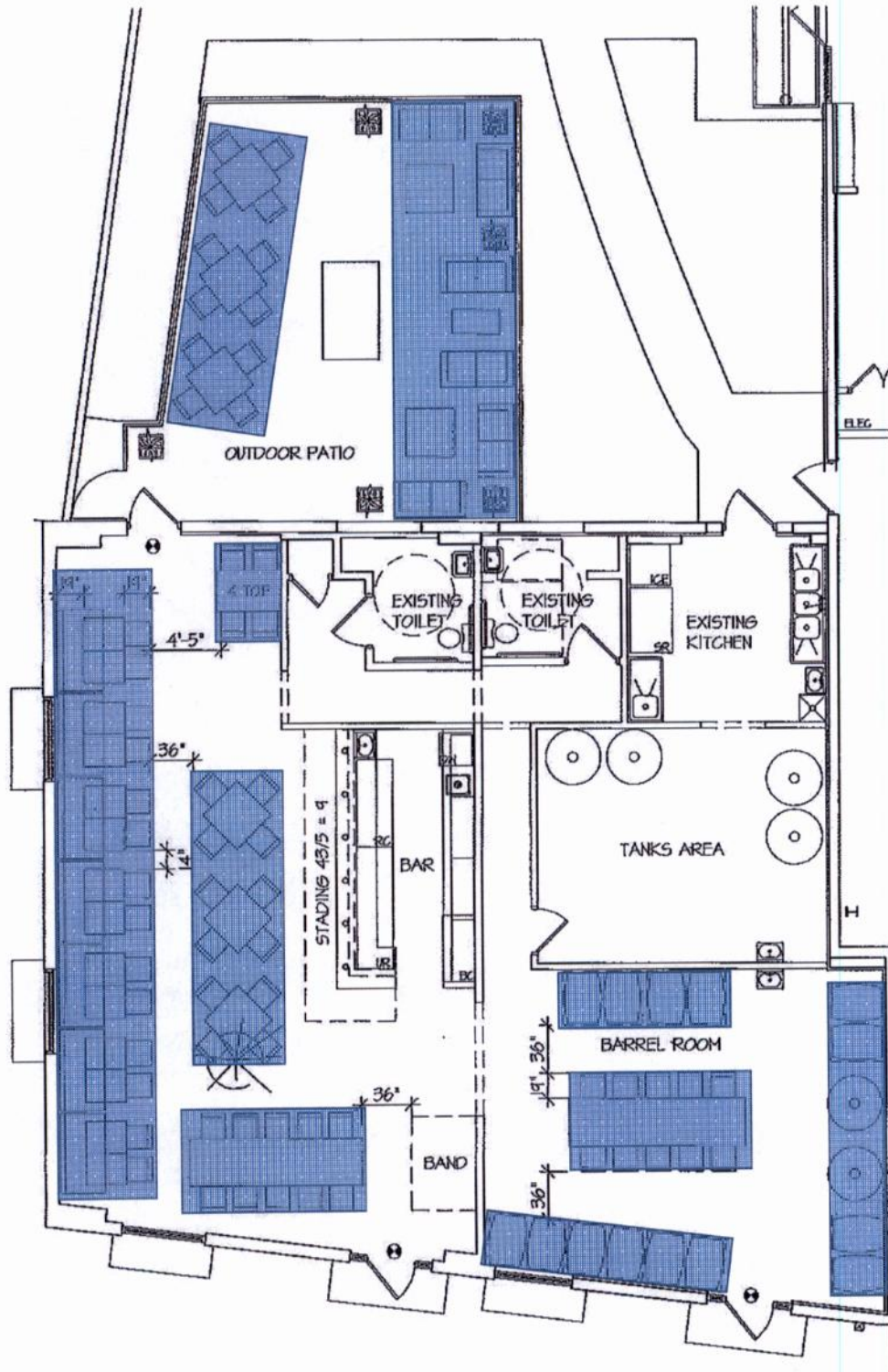
DEPARTMENT OF CITY PLANNING

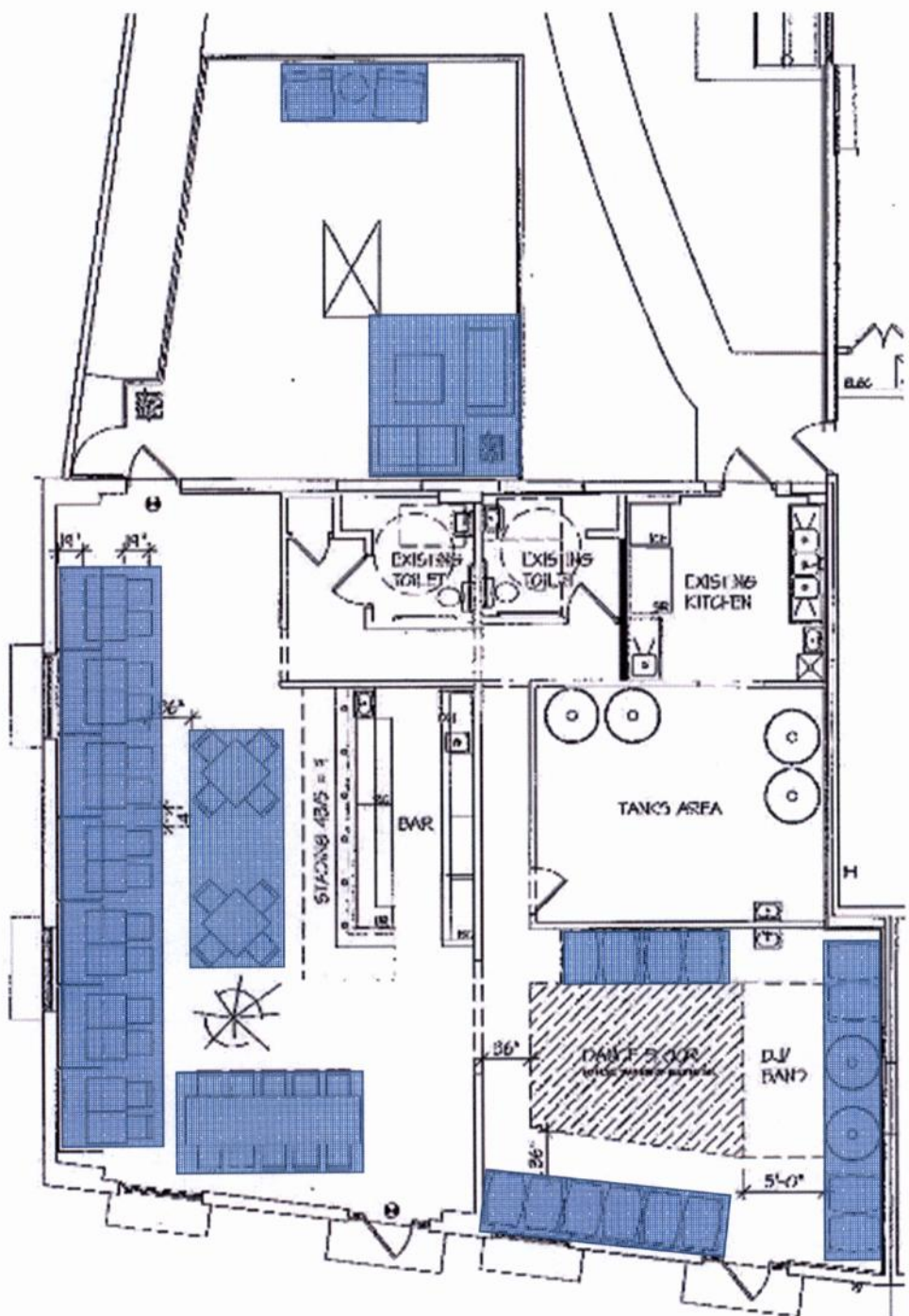
810 Union Street, Room 508

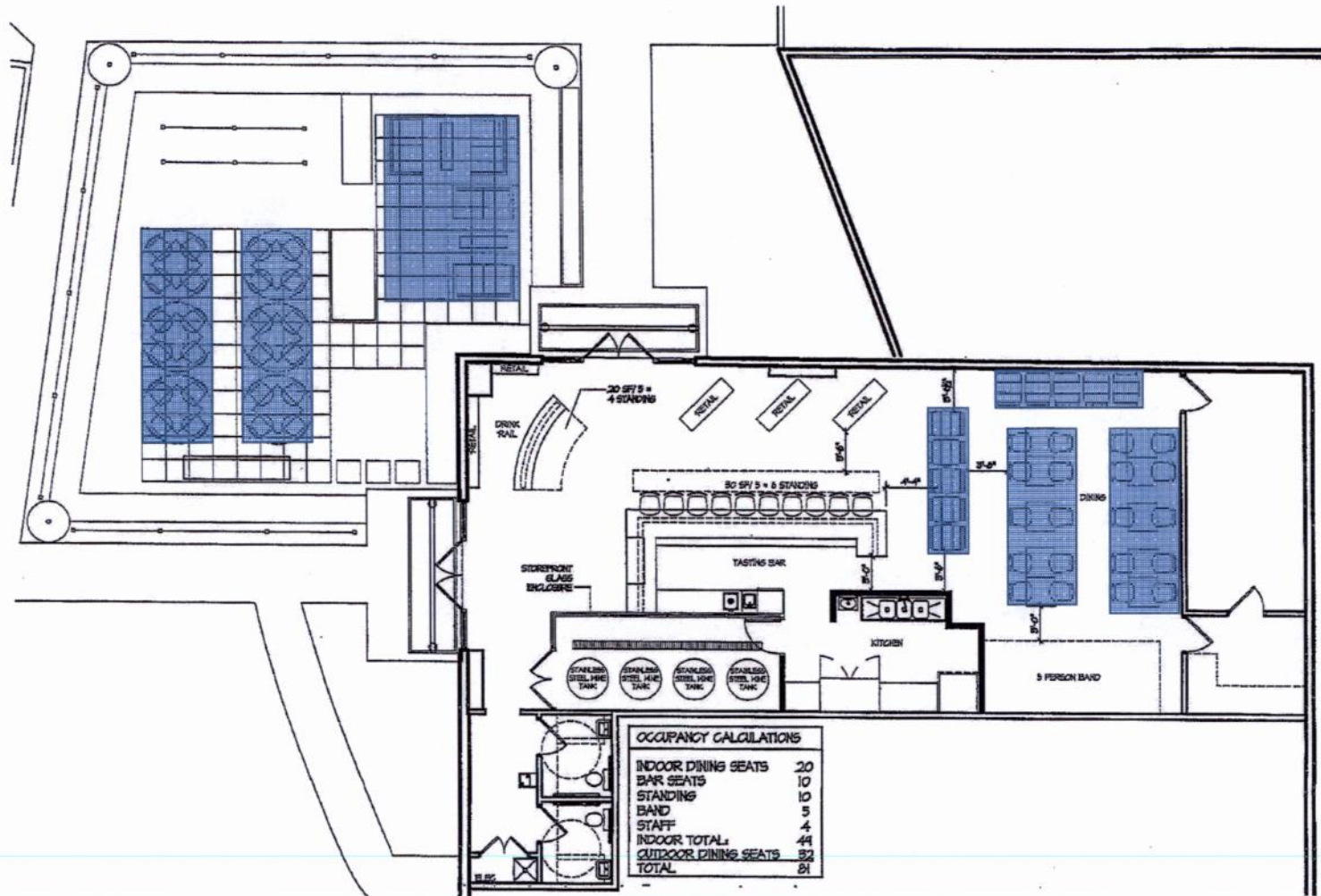
Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

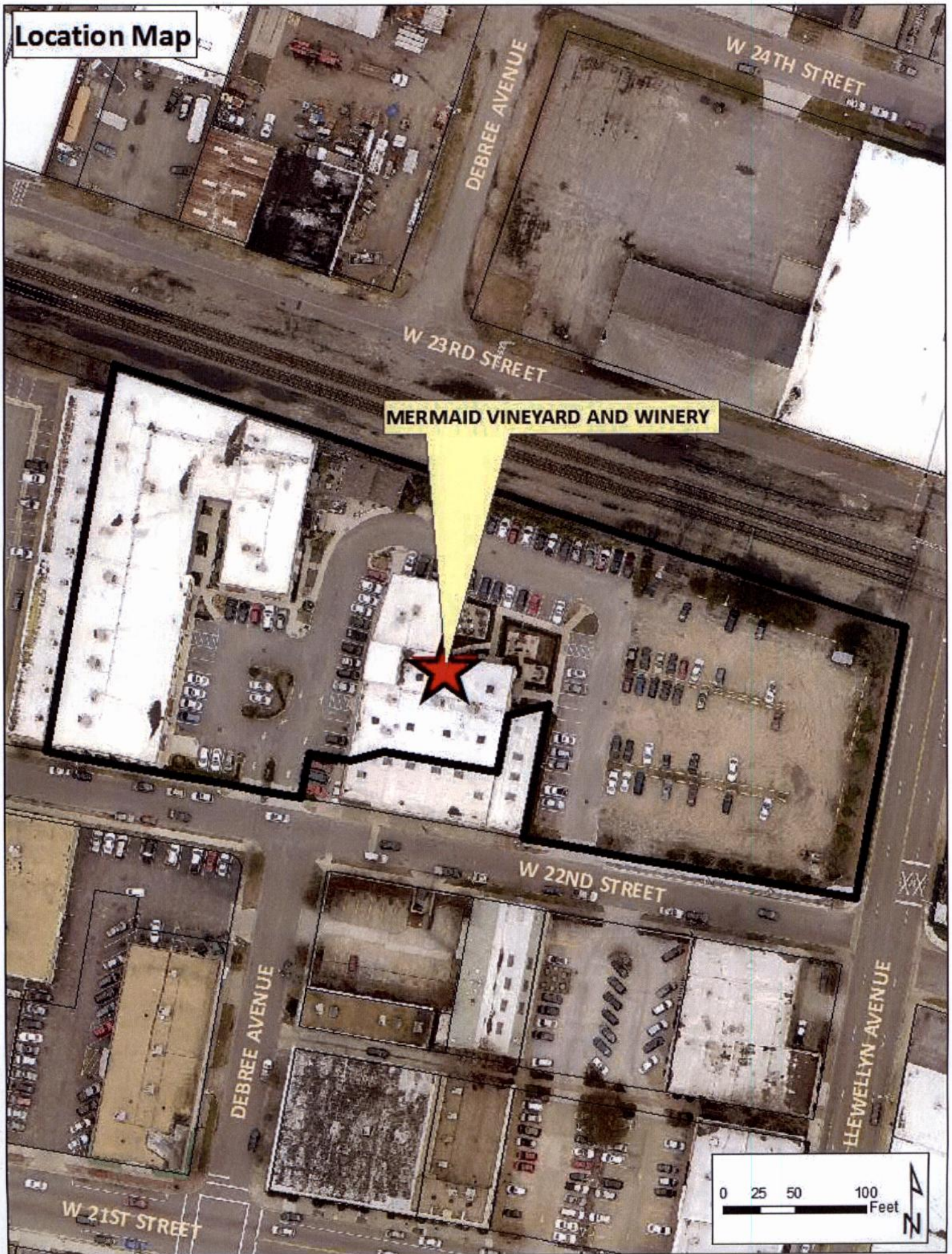
(Revised September 2015)



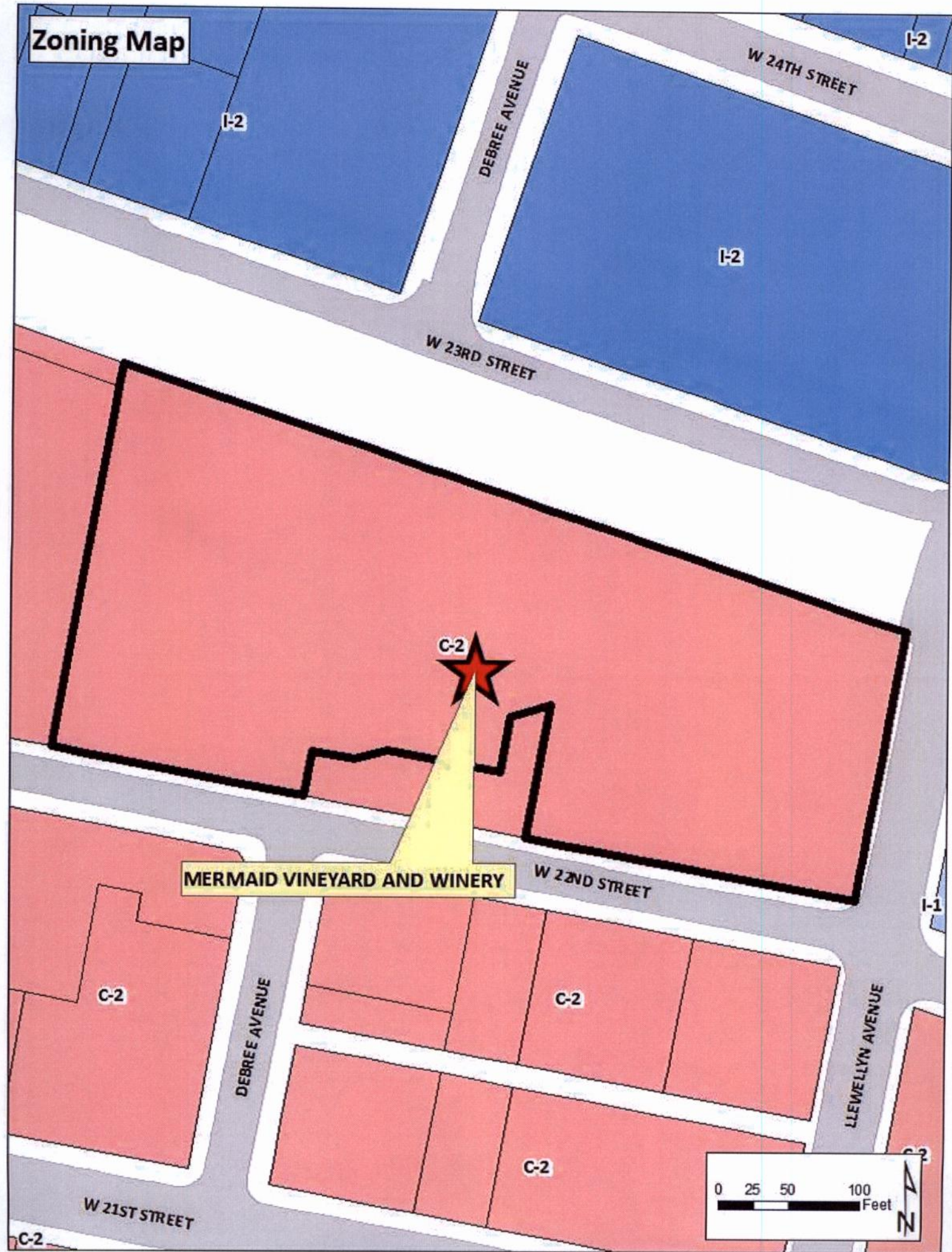




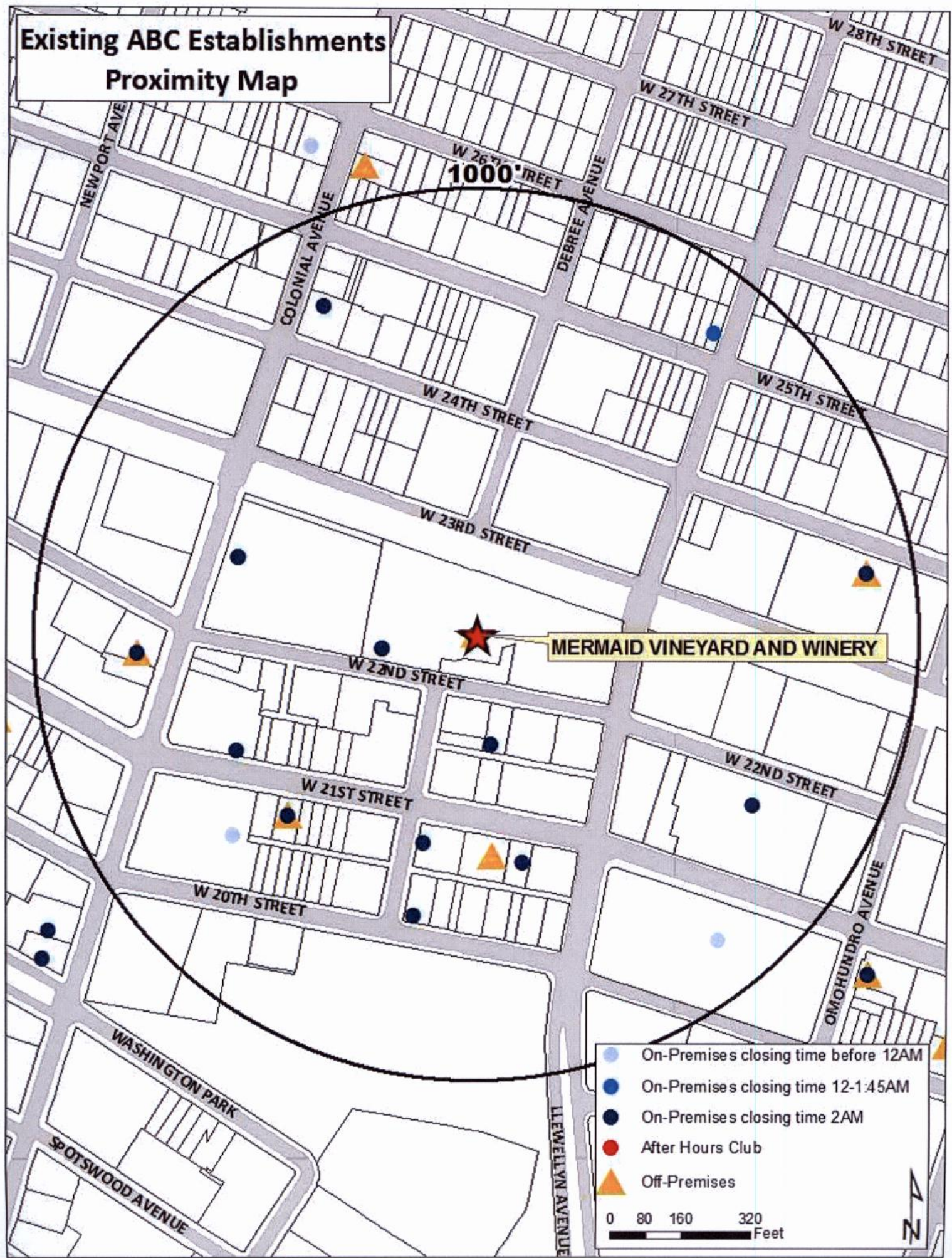
Location Map



Zoning Map



Existing ABC Establishments Proximity Map





**APPLICATION
ADULT USE SPECIAL EXCEPTION
ENTERTAINMENT ESTABLISHMENT
(Please Print)**

Date 10/20/2015

DESCRIPTION OF PROPERTY

Address 404- 330 W. 22nd Street, Ste 104+105, Norfolk, VA 23517 ⁺¹⁰⁶

Existing Use of Property Entertainment Establishment

Proposed Use Winemaking and Tasting Room

Current Building Square Footage ~~2,754~~ 2,444

Proposed Building Square Footage ~~2,754~~ 5,203

Trade Name of Business (If applicable) Mermaid Winery

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Eichert (First) Jennifer (MI) C

Mailing address of applicant (Street/P.O. Box): 330 W. 22nd Street, Suite 106

(City) Norfolk (State) VA (Zip Code) 23517

Daytime telephone number of applicant (757) 233-4155 Fax () N/A

E-mail address of applicant: jennifer@mermaidwinery.com

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised September 2015)

Application
Entertainment Establishment
Page 2

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) N/A (First) _____ (MI) _____

Mailing address of applicant (Street/P.O. Box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of applicant () _____ Fax () _____

E-mail address of applicant: _____

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

PALACE STATION, LLC

3. Name of property owner: (Last) Ihleman (First) Claus (MI) _____

Mailing address of property owner (Street/P.O. box): 301 W. 21st Street

(City) Norfolk (State) VA (Zip Code) 23517

Daytime telephone number of owner (757) 623-3100 email: claus@decorumfurniture.com

CIVIC LEAGUE INFORMATION

Civic League contact: ~~Henry Conde~~ Emily Birkenes / GBA

Date(s) contacted: Will contact.

Ward/Super Ward information: Ward 2

REQUIRED ATTACHMENTS

- Required application fee, **\$355.00** (if check, make payable to the City of Norfolk).
 - Application fee includes a non-refundable \$5 technology surcharge.
- One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example)
- One 8 ½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- One 8½ inch x 11 inch copy of a floor plan prepared by a registered design professional drawn to scale showing restroom facilities, seats/tables, bar, dance floor with dimensions, band area, disc jockey area, standing room and ingress and egress (see attached example).
- Completed Exhibit A, Description of Operations (attached).

CERTIFICATION

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: PALACE STATION LLC
CCAVS HILLENMAN Sign: [Signature] 10/23/2015
(Property Owner) (Date)

Print name: Jennifer Eichert Sign: [Signature] 10/20/2015
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ Sign: _____ / _____ / _____
(Authorized Agent Signature) (Date)

Exhibit A
Entertainment Establishment — FLOOR PLAN B
Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats 20
(not including bar seats)

Number of bar seats 10
Number of tables 10

b. Outdoor

Number of seats 30

Number of tables 6

c. Number of employees 4

Total Occupancy (Indoor and Outdoor and employees) 81

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

10 2-Tops 6 4-Tops 6 Tops

Other:

3. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)

☒ Yes ☐ No

4a. If yes, describe in detail:

The maximum amount of Entertainment will
consist of five amplified or unamplified musicians
inside the building.

4. Will a dance floor be provided?

☐ Yes ☒ No

4a. If yes, square footage of establishment _____
square footage of dance floor _____



**APPLICATION
ADULT USE SPECIAL EXCEPTION
ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION**

Date of Application: 10/20/2015

DESCRIPTION OF PROPERTY

Property location: (Street Number) 404-330 (Street Name) W. 22nd Street, Suite 104+105 + 106
Existing Use of Property Entertainment Establishment
Current Building Square Footage 2,759
Proposed Use Winemaking + Tasting Room
Proposed Building Square Footage 2,759
Trade Name of Business (If applicable) Mermaid Winery

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Eichert (First) Jennifer (MI) C
Mailing address of applicant (Street/P.O. Box): 330 W. 22nd Street, Suite 106
(City) Norfolk (State) VA (Zip Code) 23517
Daytime telephone number of applicant (757) 233-4155 Fax () N/A
E-mail address of applicant: jennifer@mermaidwinery.com

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised September, 2015)

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) _____ (First) _____ (MI) _____

Mailing address of applicant (Street/P.O. Box): _____

(City) _____ (State) _____ (Zip Code) _____

Daytime telephone number of applicant () _____ Fax () _____

E-mail address of applicant: _____

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

PALACE STATION LLC

3. Name of property owner: (Last) *Inlemann* (First) *Claus* (MI) _____

Mailing address of property owner (Street/P.O. box): *301 W. 21st Street*

(City) *Norfolk* (State) *VA* (Zip Code) *23517*

Daytime telephone number of owner (757) *623-3100* email: *claus@decorumfurniture.com*

CIVIC LEAGUE INFORMATION

Civic League contact: *Henry Conde Emily Barnes / GBA*

Date(s) contacted: *Will contact*

Ward/Super Ward information: *Ward 2*

CERTIFICATION:

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: PALACE STATION LLC
CLAY S. HILGEMANN Sign: [Signature] 10/23/2015
(Property Owner) (Date)

Print name: Jennifer Eichert Sign: [Signature] 10/20/2015
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ Sign: _____ / _____ / _____
(Authorized Agent Signature) (Date)



EXHIBIT "A"

Description of Operations Off-Premises Sale of Alcoholic Beverage

Date of Application: 10/20/2015

Name of business: Mermaid Vineyard & Winery, LLC

Address of business: 404- 330 W. 22nd Street, Suite 106, Norfolk, VA 23517

Name(s) of business owner(s)*: Jennifer Eichert, George Eichert (LLC same as name of business)

Name(s) of property owner(s)*: Palace Station LLC, Claus Ihlemann

Name(s) of business manager(s)/operator(s): Kari Gallant, Thomas Pasko, Justin Burns, Jennifer Eichert, George Eichert, Michael Cozart

Daytime telephone number (757): 233-4155

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility	Alcoholic Beverage Sales
Weekday From <u>10 AM</u> To <u>12 AM</u>	Weekday From <u>10 AM</u> To <u>12 AM</u>
Friday From <u>10 AM</u> To <u>12 AM</u>	Friday From <u>10 AM</u> To <u>12 AM</u>
Saturday From <u>10 AM</u> To <u>12 AM</u>	Saturday From <u>10 AM</u> To <u>12 AM</u>
Sunday From <u>10 AM</u> To <u>12 AM</u>	Sunday From <u>10 AM</u> To <u>12 AM</u>

2. Type of alcoholic beverage applied for:

☒ Beer ☒ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:

☒ Room temperature ☒ Refrigerated

DEPARTMENT OF CITY PLANNING


810 Union Street, Room 508
Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised September, 2015)

4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

Will not sell the above beverage sizes.



Signature of applicant/owner

Pollock, Susan

From: Straley, Matthew
Sent: Tuesday, October 27, 2015 3:49 PM
To: 'info@ghentva.org'; 'Emily Birknes'; 'Ben Crumpler'; 'Ian_holder@ml.com'
Cc: Whibley, Terry; Winn, Barclay; Wilson, Denise; Pollock, Susan
Subject: new Planning Commission applications - 330-404 W. 22nd Street, Suites 104-106
Attachments: Mermaid Winery_Entertainment.pdf; Mermaid Winery ABC-Off.pdf

Ms. Birknes and Mr. Holder,

Attached please find the following applications for 330-404 W. 22nd Street, Suites 104-106:

- a. Expansion of a previously granted special exception to operate an entertainment establishment with alcoholic beverages.
- b. Expansion of a previously granted special exception for the sale of alcoholic beverages for off-premises consumption.

The item is tentatively scheduled for the December 10, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Susan Pollock Hart* at (757) 664-4765, susan.pollock@norfolk.gov

Thank you.

Matthew Straley
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569



Ghent Neighborhood League

P O Box 11431
Norfolk, VA 23517

December 4, 2015

Dear Norfolk Planning Commissioners:

The Ghent Neighborhood League recently received a copy of an application for Mermaid Winery at 330-404 W. 22nd Street , Suites 104-106 for:

- a. Expansion of a previously granted special exception to operate an entertainment establishment with alcoholic beverages.
- b. Expansion of a previously granted special exception for the sale of alcoholic beverages for off-premises consumption.

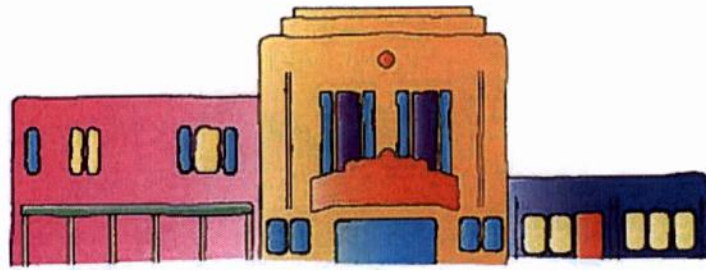
Jennifer Eichert, the business owner and applicant, provided a brief overview of the pending applications at our November 19, 2015 Monthly Ghent Neighborhood League Meeting. GNL Board Members and Members in attendance had **no objections to the above noted requests.**

We thank the Commission for the opportunity to provide neighborhood input on these pending applications.

With this, the Board of Ghent Neighborhood League wishes to extend to Commissioners and Planning Staff our appreciation and warm wishes during this holiday season!

Regards,

Joan McEnery
Commercial Review Committee Chairperson
Ghent Neighborhood League



Ghent Business Association

December 11, 2015

City Council
City of Norfolk
City Hall
Norfolk, VA 23510

To whom it may concern,

The GBA would like to express its support for the request for special exceptions by Mermaid Winery. We are very excited to see another thriving independent entrepreneur expanding in our neighborhood.

Sincerely,

Ted Enright
Corresponding Secretary
Development Committee Chairman
Ghent Business Association